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Customer Number

Patent  
Case No.: 64349US010

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

First Named Inventor: LUDWIG, PETER

Application No.: 10/587967 Confirmation No.: 6670

Filed: 01-FEB-2005 Group Art Unit

Title: SEPARATING LAYER CARRIER

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**BRIEF ON APPEAL**

Mail Stop: Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR § 1.8(a)]**

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March 29, 2011

Date

/Kim Elfstrom/

Signed by: Kim Elfstrom

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Dear Sir:

This is an appeal from the Office Action mailed on July 29, 2010, finally rejecting claims 1-14.

**Fees**

- Any required fee under 37 CFR § 41.20(b)(2) will be made at the time of submission via EFS-Web. In the event fees are not or cannot be paid at the time of EFS-Web submission, please charge any fees under 37 CFR § 1.17 which may be required to Deposit Account No. 13-3723.
- Please charge any fees under 37 CFR §§ 37 CFR § 41.20(b)(2) and 1.17 which may be required to Deposit Account No. 13-3723.
- Please charge any additional fees associated with the prosecution of this application to Deposit Account No. 13-3723. This authorization includes the fee for any necessary extension of time under 37 CFR § 1.136(a). To the extent any such extension should become necessary, it is hereby requested.
- Please credit any overpayment to the same deposit account.

A Notice of Appeal in this application was filed on October 29, 2010 and was received in the USPTO on October 29, 2010.

**REAL PARTY IN INTEREST**

The real party in interest is 3M Company (formerly known as Minnesota Mining and Manufacturing Company) of St. Paul, Minnesota and its affiliate 3M Innovative Properties Company of St. Paul, Minnesota.

**RELATED APPEALS AND INTERFERENCES**

Appellants are unaware of any related appeals or interferences.

**STATUS OF CLAIMS**

Claims 1-14 are pending. Claims 1-14 stand rejected and are appealed herein. The claims are subject to a rejection for double patenting. Such a rejection will be dealt with upon the finding of allowable subject matter in the present case, and is not appealed at this time.

**STATUS OF AMENDMENTS**

No amendments have been filed after the final rejection.

**SUMMARY OF CLAIMED SUBJECT MATTER**

The claims at issue concern a separating layer carrier comprising a laminar substrate and a separating layer applied thereon. See, e.g., paragraph 0001 of the application as published. The carrier comprises a relief structure with raised sections forming substantially complementary channels in a layer of adhesive, through which air trapped during adhesion can escape. See, e.g., paragraph 0001 of the application as published. The relief structure is provided, at least in part, by an imprint of a printing material in a pattern on the substrate and the raised sections of the relief structure comprise the printing material. See, e.g., paragraph 0007, and Figures 1-4 of the application as published.

In some embodiments, the substrate comprises paper. See, e.g., paragraph 0008 of the application as published.

In some embodiments, the substrate comprises coated paper. See, e.g., paragraph 0008 of the application as published.

In some embodiments, the substrate comprises paper coated with plastic. See, e.g., paragraph 0010 of the application as published.

In some embodiments, the substrate comprises plastic film. See, e.g., paragraph 0010 of the application as published.

In some embodiments, the substrate comprises plastic film coated with plastic. See, e.g., paragraph 0010 of the application as published.

In some embodiments, the separating layer is imprinted on the substrate with the relief structure covering the entire surface. See, e.g., paragraph 0011 of the application as published.

In some embodiments, the relief structure is a regular polygonal structure comprising polygons having between four and eight corners. See, e.g., paragraph 0014 of the application as published.

In some embodiments, the relief structure is an irregular polygonal structure comprising stochastically shaped and distributed corner-joined polygons having between four and seven corners. See, e.g., paragraph 0015 of the application as published.

In some embodiments, the relief structure comprises sections having a width of from 50  $\mu\text{m}$  to 200  $\mu\text{m}$  and a height of from 5  $\mu\text{m}$  to 40  $\mu\text{m}$ . See, e.g., paragraph 0013 of the application as published.

In some embodiments, each polygon covers an area of from 0.5  $\text{mm}^2$  to 3  $\text{mm}^2$ . See, e.g., paragraph 0016 of the application as published.

In some embodiments, a self-adhesive material is added to the carrier. See, e.g., paragraph 0002 and Figures 1-3 of the application as published.

In some embodiments, the relief structure is a rhombus or regular hexagon. See, e.g., paragraph 0014 of the application as published.

In some embodiments, the printing material comprises printing inks modified with silicone. See, e.g., paragraph 0009 of the application as published.

#### **GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

##### **First Ground of Rejection**

Claims 1-13 are rejected under 35 USC § 102(b) as being anticipated by U.S. Patent 6,197,397 to Sher et al. (“Sher”).

**Second Ground of Rejection**

Claims 1-10 and 12-13 are rejected under 35 USC § 102(b) as being anticipated by U.S. Patent Application 2001/0031352 (“Hannington”).

**Third Ground of Rejection**

Claim 9 is rejected under 35 USC § 103(a) as being unpatentable over Sher.

**Fourth Ground of Rejection**

Claim 9 is rejected under 35 USC § 103(a) as being unpatentable over Hannington. As stated above, Hannington fails to teach each and every element of Claim 1.

**Fifth Ground of Rejection**

Claims 1-13 are rejected under 35 USC § 103(a) as being unpatentable over Sher in view of U.S. Patent Application 2003/0211295 to Scarborough et al. (“Scarborough”).

**Sixth Ground of Rejection**

Claim 14 is rejected under 35 USC § 103(a) as being unpatentable over Sher in view of Scarborough and further in view of U.S. Patent 6,254,583 to O’Donnell et al. (“O’Donnell”).

**Seventh Ground of Rejection**

Claim 14 is rejected under 35 USC § 103(a) as being unpatentable over Hannington in view of U.S. Patent 6,350,339 to Sessions (“Sessions”).

**ARGUMENT****First Ground of Rejection**

Claims 1-13 are rejected under 35 USC § 102(b) as being anticipated by U.S. Patent 6,197,397 to Sher at al. (“Sher”). The Examiner takes the position that the silicone release coating of Sher is an imprint of a printing material. The silicone release coating disclosed in Sher is

merely a continuous coating over the entire liner in Sher. See Col. 9, lines 20-24. This coating is not the primary provider of the relief pattern. While Sher does have a relief pattern on the liner, it is embossed into the liner and is not separately provided by the printing material. The printing material, as argued by the Examiner, is merely a coating over an existing relief structure. The silicone release coating is not printed in a pattern in Sher.

Sher fails to teach or disclose the printing material in a pattern. Claims 2-13 depend, directly or indirectly, from Claim 1 and therefore are patentable for the reasons previously discussed. The rejection of claims 1-13 under 35 USC § 102(b) as being anticipated by Sher has been overcome and should be withdrawn.

### **Second Ground of Rejection**

Claims 1-10 and 12-13 are rejected under 35 USC § 102(b) as being anticipated by U.S. Patent Application 2001/0031352 (“Hannington”). The Examiner states that Hannington teaches a relief structure at Fig. 4, #43 and paragraph 0050. However, element #43 is a non-adhesive portion printed directly onto an adhesive surface. In some embodiments, it is then embedded in the adhesive. The release liner (carrier) is then laminated directly to the printed adhesive. Hannington never teaches or suggests a separating layer carrier comprising a laminar substrate and a separating layer applied thereon, wherein the carrier comprises a relief structure with raised sections forming substantially complementary channels in a layer of adhesive. Therefore, Claim 1 is not anticipated by Hannington. Claims 2-10 and 12-13 depend, directly or indirectly, from Claim 1 and therefore are patentable for the reasons previously discussed.

The rejection of claims 1-10 and 12-13 under 35 USC § 102(b) as being anticipated by Hannington has been overcome and should be withdrawn.

### **Third Ground of Rejection**

Claim 9 is rejected under 35 USC § 103(a) as being unpatentable over Sher. As stated above, Sher fails to teach each and every element of Claim 1. Claim 9 depends directly from Claim 1, and is therefore patentable for the reasons discussed above.

**Fourth Ground of Rejection**

Claim 9 is rejected under 35 USC § 103(a) as being unpatentable over Hannington. As stated above, Hannington fails to teach each and every element of Claim 1. Claim 9 depends directly from Claim 1, and is therefore patentable for the reasons discussed above.

**Fifth Ground of Rejection**

Claims 1-13 are rejected under 35 USC § 103(a) as being unpatentable over Sher in view of U.S. Patent Application 2003/0211295 to Scarborough et al. (“Scarborough”). The Examiner states that one would replace the embossing feature in Sher for the printing feature of Scarborough to save to cost associated with embossing. However, one would also be placing a layer of adhesive over the printed article in order to form substantially complementary channels in the adhesive. Nothing in Scarborough would suggest that the printed material would be effective to form these channels in an adhesive coated over the top. Additionally, the adhesive channels must be open after removal of the release liner so the air trapped during adhesion can escape. One would not reasonable expect that the printed material would remain on the carrier, thereby allowing the air channels that were created to remain open. Therefore, one of skill in the art would not make the modification suggested by the Examiner, and the rejection of claims 1-13 under 35 USC § 103(a) as being unpatentable over Sher in view of Scarborough has been overcome and should be withdrawn.

**Sixth Ground of Rejection**

Claim 14 is rejected under 35 USC § 103(a) as being unpatentable over Sher, or Sher in view of Scarborough and further in view of U.S. Patent 6,254,583 to O’Donnell et al. (“O’Donnell”). As stated above, Claim 1 is patentable over Sher in view of Scarborough. Claim 14 depends directly from Claim 1, and is therefore patentable for the reasons discussed above. The addition of O’Donnell fails to correct the defects in Sher and Scarborough.

**Seventh Ground of Rejection**

Claim 14 is rejected under 35 USC § 103(a) as being unpatentable over Hannington in view of U.S. Patent 6,350,339 to Sessions (“Sessions”). Claim 14 depends directly from Claim

1, and is therefore patentable for the reasons discussed above. As stated above, Hannington fails to teach each and every element of Claim 1. Sessions fails to correct the defects in Hannington.

**CONCLUSION**

For the foregoing reasons, appellants respectfully submit that the Examiner has erred in rejecting this application. Please reverse the Examiner on all counts.

Respectfully submitted,

March 29, 2011

Date

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3M Innovative Properties Company  
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**CLAIMS APPENDIX**

1. (Previously Presented) A separating layer carrier comprising a laminar substrate and a separating layer applied thereon, wherein the carrier comprises a relief structure with raised sections forming substantially complementary channels in a layer of adhesive, through which air trapped during adhesion can escape, characterized in that the relief structure is provided, at least in part, by an imprint of a printing material in a pattern on the substrate and the raised sections of the relief structure comprise the printing material.
2. (Original) The separating layer carrier according to claim 1, wherein the substrate (10) comprises paper.
3. (Original) The separating layer carrier according to claim 2, wherein the substrate comprises coated paper.
4. (Original) The separating layer carrier according to claim 2, wherein the substrate comprises paper coated with plastic.
5. (Original) The separating layer carrier according to claim 1, wherein the substrate comprises plastic film.
6. (Original) The separating layer carrier according to claim 5, wherein the substrate comprises plastic film coated with plastic.
7. (Original) The separating layer carrier according to claim 1 wherein the separating layer is imprinted on the substrate with the relief structure covering the entire surface.
8. (Previously Presented) The separating layer carrier according to claim 1 wherein the relief structure is a regular polygonal structure comprising polygons having between four and eight corners.

9. (Original) The separating layer carrier according to claim 1 wherein the relief structure is an irregular polygonal structure comprising stochastically shaped and distributed corner-joined polygons having between four and seven corners.

10. (Original) The separating layer carrier according to claim 1 wherein the relief structure comprises sections having a width of from 50  $\mu\text{m}$  to 200  $\mu\text{m}$  and a height of from 5  $\mu\text{m}$  to 40  $\mu\text{m}$ .

11. (Previously Presented) The separating layer carrier according to claim 8 wherein each polygon covers an area of from 0.5  $\text{mm}^2$  to 3  $\text{mm}^2$ .

12. (Original) A self-adhesive material comprising a separating layer carrier according to claim 1.

13. (Previously Presented) The separating layer carrier according to claim 8 wherein the relief structure is a rhombus or regular hexagon.

14. (Previously Presented) The separating layer of claim 1 wherein the printing material comprises printing inks modified with silicone.

**EVIDENCE APPENDIX**

None.

**RELATED PROCEEDINGS APPENDIX**

None.